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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
TRAN, ELLEN C	

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,174

Applicant(s)

KRTOLICA ET AL.

Examiner

Ellen C. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communication filed on: 27 June 2007 with acknowledgement of an original application filed on 2 October 2003.
2. Claims 1-20 are currently pending, claims 1, 19, and 20 are independent claims.

Response to Arguments

3. The Declarations filed on 27 June 2007 and 12 May 2007 under 37 CFR 1.131 have been considered but are ineffective to overcome the Xie et al. US Patent Publication No. 2004/0059942 reference.
4. The Xie et al. US Patent Publication No. 2004/0059942 reference is a U.S. patent application publication of a pending or patented application that claims the rejected invention. An affidavit or declaration is inappropriate under 37 CFR 1.131(a) when the reference is claiming the same patentable invention, see MPEP § 2306. If the reference and this application are not commonly owned, the reference can only be overcome by establishing priority of invention through interference proceedings. See MPEP Chapter 2300 for information on initiating interference proceedings. If the reference and this application are commonly owned, the reference may be disqualified as prior art by an affidavit or declaration under 37 CFR 1.130. See MPEP § 718.
5. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Xie et al. US Patent Publication No. 2004/0059942 reference to either a constructive reduction to practice or an actual reduction to practice. The Declarations submitted show a conception of the invention in early 2002 with a claim outline in June 3, 2002, however the delay of the Patent Application due to restructuring of a company demonstrates a

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lack of diligence. In addition since there is no improvement in the drafted claims and the timeframe is over one year the drafted claims could constitute a statutory bar.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Xie et al. US Patent Publication No. 2004/0059942 (hereinafter '942).

As to independent claim 1, “A method of distributing information packets containing headers over a communication network, from multiple send endpoint ports, in a send endpoint unit, through a standard based send firewall adapter, across at least one firewall, through a standard based receive firewall adapter, to multiple receive endpoint ports in a receive endpoint unit, comprising the steps of: determining a single firewall port through the at least one firewall, from a plurality of firewall ports into the network” is taught in '942 page 2, paragraph 0020;

“opening a network tunnel connection over the communication network, along determined firewall port, which connection traverses the at least one firewall” is shown in ‘942 page 2, paragraph 0022;

“multiplexing multiple streams of packets in the multiple send endpoint ports of the send endpoint unit, into the single determined firewall port, to form a single stream of multiplexed packets; sending the multiplexed packets over communication network through the opened tunnel connection, from the send firewall adapter to the receive firewall adapter” is disclosed in ‘942 page 3, paragraph 0034;

“and demultiplexing the single determined firewall port into the multiple receive endpoint ports of the receive endpoint unit to form multiple streams of demultiplexed packets” is taught in ‘942 page 4, paragraph 0040.

As to dependent claim 2, **“further comprising before the sending step the additional step of providing a header protocol from a stack of protocols in response to the packet headers”** is shown in ‘942 page 2, paragraph 0021.

As to dependent 3, **“further comprising the additional step of altering the protocol stack by adding or deleting specific protocols”** is disclosed in ‘942 page 1, paragraph 0004.

As to dependent 4, **“wherein the at least one firewall is a single firewall between the communication network and either the send firewall adapter or the receive firewall adapter”** is taught in ‘942 page 1, paragraph 0004.

As to dependent 5, **“wherein the at least one firewall is at least two firewalls, a send firewall between the communication network and the send firewall adapter and a receive**

firewall between the communication network and the receive firewall adapter” is shown in ‘942 page 1, paragraph 0004.

As to dependent 6, **“wherein the communication network has a network protocol for distributing information packets”** is disclosed in ‘942 page 2, paragraph 0020.

As to dependent 7, **“wherein the network protocol is TCP”** is taught in ‘942 page 2, paragraph 0030, TCP equivalent to IP packets exchanged over the Internet.

As to dependent 8, **“wherein the communication is carried by voice and/or video”** is taught in ‘942 page 2, paragraph 0020.

As to dependent 9, **“wherein the communication network is an internet”** is shown in ‘942 page 2, paragraph 0020.

As to dependent 10, **“wherein the communication network is a wide area network”** is disclosed in ‘942 on page 4, paragraph 0040.

As to dependent 11, **“wherein the communication network is a local area network”** is taught in ‘942 page 4, paragraph 0040.

As to dependent 12, **“wherein the determined firewall port is selected by the send firewall adapter”** is shown in ‘942 page 2, paragraph 0021.

As to dependent 13, **“wherein the determined firewall port is selected from a range of firewall ports”** is disclosed in ‘942 on page 2, paragraph 0024.

As to dependent 14, **“wherein the determined firewall port is predetermined”** is taught in ‘942 page 4, paragraph 0054.

As to dependent 15, **“wherein the predetermined firewall port is a default port”** is shown in ‘942 page 3, paragraph 0034.

As to dependent 16, “wherein the predetermined default firewall port is the HTTP network port” is disclosed in ‘942 on page 4, paragraph 0054.

As to dependent 17, “further comprising before the sending step the additional step of opening multiple logical communication channels within the opened tunnel connection by assigning channel numbers in the header of the packets, the multiple channels corresponding to the multiple send endpoint ports” is taught in ‘942 page 2, paragraph 0021.

As to dependent 18, “further comprising after the sending step the additional step of opening multiple receive endpoint ports within the receive endpoint unit by assigning port numbers in the header of the packets, the multiple receive endpoint ports corresponding with the multiple logical communication channels” is shown in ‘942 page 2, paragraph 0021.

As to independent claim 19, this claim is directed to the apparatus performing the method of claim 1; therefore it is rejected along similar rationale.

As to independent claim 20, this claim is directed to the computer readable medium of claim 1; therefore it is rejected along similar rationale.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is (571) 272-3842. The examiner can normally be reached from 6:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ET
Ellen Tran
Patent Examiner
Technology Center 2134
3 August 2007


KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER